

IN THE MIAMI COUNTY COURTS

2008 TERM

IN THE MATTER OF:)
COUNTY LOCAL RULES)

ORDER FINDING GOOD CAUSE TO ADOPT LOCAL RULE
AT TIME OTHER THAN ESTABLISHED SCHEDULE

Come now the Judges of the Miami Superior Court and the Miami Circuit Court and pursuant to Trial Rule 81(D), now find good cause exists to deviate from the schedule established by the Division of State Court Administration for publishing local rules and that the Courts' new local court rule establishing Late Fees in criminal cases should be adopted as a local court rule in compliance with the provisions of Trial Rule 81(A). Comments by the bar and the public should be made in writing and mailed to:

Daniel C. Banina, Judge of the Miami Superior Court. Attn: Public Comment on Local Rules, Miami County Courthouse, Courthouse, Peru, Indiana 46970.

A paper copy of the proposed amended local rule for Caseload Allocation Plan will be made available for viewing in the Office of the Clerk of Miami County, Miami County Courthouse, Peru, Indiana during the normal business hours. Persons with Internet access may review the proposed amended local rule for Caseload Allocation Plan at the following websites:

<http://www.miamicountyin.gov>

After posting for thirty (30) days in the Miami County Clerk of the Courts' Office and on the Indiana Judicial Website, Miami County Local Rule 52-CR00-3 will become effective July 1, 2008. The proposed rule to be adopted is as follows:

LATE FEES

- A. Pursuant to I.C. 33-37-5-22 this Rule applies in each case in which a Defendant is found to have
1. Committed a crime, violated a statute defining an infraction; violated an ordinance of municipal corporation; or committed a delinquent act;
 2. Is required to pay court costs, including fees; a fine; or a civil penalty;
 3. Is not determined by the Court imposing the court costs, fine, or civil penalty to be indigent; and
 4. Fails to pay the Clerk the costs, fine, or civil penalty in full before the later of the following:
 - a. The end of the business day on which the Court enters the conviction or judgment; or
 - b. The end of the business day on which the Court has ordered as the deadline for the payment of costs, fines and civil penalties.
- B. The Court may extend the deadline for payment under this Rule for good cause shown.
- C. The Court may suspend a late fee payment if the Court finds that the Defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine or civil penalty.
- D. The Clerk shall collect a late payment fee of twenty-five dollars (\$25.00) from a Defendant described in subsection A of this Rule.

Dated this 29th day of May, 2008.

_____/S/_____
Daniel C. Banina, Judge
Miami Superior Court

_____/S/_____
Robert A. Spahr, Judge
Miami Circuit Court

**STATE OF INDIANA – COUNTY OF MIAMI
IN THE MIAMI CIRCUIT AND SUPERIOR COURTS**

**Notice of Proposed Amendment of Local Rule for Caseload Allocation
Plan for the Courts of Record of Miami County
June 1, 2008**

In accordance with Administrative Rule 1(E) of the Indiana Court Rules, the Miami Circuit and Superior Courts hereby give notice to the bar and the public that the Courts purpose to amend LR52- AR00-1, LR52-CR2.2-1, and LR52-TR79 (H)-1, the Local Rules setting forth setting forth the caseload allocation plan for the courts of record of Miami County, effective January 1, 2009. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. The Local Rules for caseload allocation plans pursuant to Admin. R. 1(E) requires Supreme Court approval and may not take effect until approved by the Supreme Court.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin June 1, 2008, and shall close on June 30, 2008. The proposed amendments to the rule will be adopted, modified or rejected before July 31, 2008, and the final version to the rule will be submitted to the Indiana Supreme Court for review and approved no later than August 1, 2008.

Comments by the bar and the public should be made in writing and mailed to:

Daniel C. Banina, Judge of the Miami Superior Court. Attn: Public Comment on Local Rules, Miami County Courthouse, Courthouse, Peru, Indiana 46970; or to Robert A. Spahr, Judge, Miami Circuit Court, at rspahr@miamicountyin.gov.

A paper copy of the proposed amended local rule for Caseload Allocation Plan will be made available for viewing in the Office of the Clerk of Miami County, Miami County Courthouse, Peru, Indiana during the normal business hours. Persons with Internet access may review the proposed amended local rule for Caseload Allocation Plan at the following websites:

<http://www.miamicountyin.gov>

Robert A. Spahr, Judge
Miami Circuit Court

Daniel C. Banina, Judge
Miami Superior Court

LR52-AR00-1

CASELOAD ~~DISTRIBUTION~~ ALLOCATION PLAN

The Miami Circuit and Superior Courts have previously adopted various rules and orders concerning the filing of certain types of matters in the County Courts. ~~Those rules and standing orders remain in effect. Concurrently with the adoption of these local rules, LR52-CR2.2-1 has been amended to incorporate the allocation of filing of Class D felony cases.~~

However, beginning January 1, 2009, a new Superior Court (Superior Court II) will be allocated new cases and the Circuit and Superior Court I caseloads will be adjusted. Based upon the 2007 weighted caseload numbers the judges have agreed upon the following caseload allocations:

(A) Criminal Cases:

- (1) All Murder, Class A and Class B felony cases should be filed in the Miami Circuit Court.
- (2) All Class C and D felony cases (except noted below) shall be filed in the Miami Superior Court II.
- (3) All traffic related cases, both felony and misdemeanor, shall be filed in the Miami Superior Court I.
- (4) All non-traffic related misdemeanors shall be filed in Superior Court II

(B) Infractions and Ordinances:

All Infraction and Ordinance violations shall be filed in the Miami Superior Court I.

(C) Juvenile Matters:

- (1) All Juvenile Delinquency, Status and Termination of Parental Rights cases shall be filed in Miami Superior Court II.
- (2) All Juvenile CHINS cases shall be filed in Miami Circuit Court.

(D) Small Claims:

All Small Claims shall be filed in the Miami Superior Court I.

(E) Prison Litigation:

All prison litigation, not including Small Claims, Domestic Relations or Post-Conviction Relief Petitions shall be filed in the Miami Circuit Court.

(F) All Other Filings:

All other filings, not otherwise mentioned above, can be made in any of the three (3) Miami County Trial Courts. The Courts encourage all attorneys to equalize all other filings between the Courts.

Effective January 1, 2009

LR52-CR2.2-1

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the Judges of the Miami Circuit and Superior Courts hereby establish the following rules for the assignment of criminal cases, subject to approval of the Indiana Supreme Court.

1. All traffic misdemeanor and infraction cases shall be filed in the Miami Superior Court. In the event that non-traffic misdemeanor charges are filed against a defendant who is also charged with a traffic misdemeanor, the non-traffic charges shall also be filed in the Miami Superior Court.
2. All non-traffic misdemeanor cases shall be filed in the Miami ~~Circuit~~ Superior Court II.
3. All traffic-related felony cases ~~and felony cases involving child abuse and neglect~~ shall be filed in the Miami Superior Court. If non-traffic misdemeanor counts are also filed against the same defendant arising from the same set of facts, they shall also be filed in the Miami Superior Court.
4. All Class C and D felony cases ~~with the exception of drug and theft offenses~~ shall be filed in the Miami Superior Court II. All other felony cases with the exception of those set forth in Rule 3 above will be filed in the Miami Circuit Court.
5. In the event that a change of judge is granted because of a conflict of interest or pursuant to Criminal Rule 12, the cause shall first be assigned to ~~the~~ a judge of the other Miami County Courts who does not have a conflict of interest. In the event that ~~neither~~ no judge can hear a case, Miami Circuit Court cases shall first be assigned to the Honorable Robert McCallen. If Judge McCallen is unable to accept the case will be assigned to the Honorable Thomas Perrone. Miami Superior Courts cases shall be first assigned to the Honorable Thomas Perrone. If Judge Perrone is unable to accept, the case will be assigned to the Honorable Robert McCallen.

Effective January 1, 2009

LR52-TR79 (H)-1

Purpose of Rule

This rule is adopted to comply with the requirements of Trial Rule 79(h) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges insuring the effective use of all judicial resources within Administrative District 5, and includes each court eligible for appointment under Section 9j) of Trial Rule 79.

Central Office Establishment

There is established a Central Office for the keeping of records of appointment and selection of special judges for this District. The Central Office of this District shall be the Wabash Circuit Court.

The Miami Circuit and Superior Courts shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. The Miami Circuit and Superior Courts shall accept from the Central Administrator the name of the individuals to then be appointed as special judge.

The person serving as Administrator of the Central Office shall have the following responsibilities:

1. To maintain a list of persons qualified to serve as special judge under Section (j) of Trial Rules 79.
2. To take referrals from the several courts of this District, requesting appointment of special judge.
3. To alternately and on a rotating basis appoint qualified judges from the list maintained for that purpose.
4. To notify the referring court of the individual to be appointed under this rule.

Current Rotation Schedule

The following shall be the rotation schedule used by the Central Administrator:

1. The Judge of the Cass Superior Court No. 1
2. The Judge of the Wabash Circuit Court.
3. The Judge of the Howard Superior Court No. 3.

4. The Judge of the Fulton Superior Court.
5. The Judge of the Howard Superior Court No. 2.
6. The Judge of the Fulton Circuit Court.
7. The Judge of the Howard Circuit Court
8. The Judge of the Tipton Circuit Court.
9. The Judge of the Miami Superior Court
10. The Judge of the Howard Superior Court No. 1.
11. The Judge of the Cass Circuit Court
12. The Judge of the Wabash Superior Court
13. The Judge of the Miami Circuit Court
14. The Judge of the Cass Superior Court No. 2
15. The Judge of the Miami Superior Court No. 2

Administration Fee

Each of the Court participating under this rule shall pay each year the sum of Fifty Dollars (\$50.00) to the central Administrator, payable directly to the Administrator by the 15th of September of each year.

Certification to Supreme Court

In cases in which no judge is eligible to serve as special judge in a particular case or where the circumstances of a case require it, the court shall certify those circumstances to the Supreme Court and that Court shall make the appointment.

Effective January 1, 2009